

MRS Printing, Inc. and United Paperworkers International Union, AFL-CIO, CLC, Local Union No. 551. Cases 3-CA-15989 and 3-CA-15994

September 24, 1993

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND RAUDABAUGH

On August 23, 1991, the National Labor Relations Board issued a Decision and Order,¹ *inter alia*, adopting the recommended Order of the administrative law judge and directing MRS Printing, Inc. to make whole all bargaining unit employees, with interest, for losses they sustained by reason of the Respondent's failure to maintain health insurance coverage, including costs of alternative care such as actual medical expenses and premiums, and to provide restitution for premiums paid to the Respondent by those employees which it did not remit to the insurance carrier.

A controversy having arisen over the amount of reimbursement due employees, on May 12, 1992, the Regional Director for Region 3 issued a compliance specification and notice of hearing alleging the amount due under the Board's Order, and notifying the Respondent and its counsel that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent has failed to file an answer.

By letter dated June 22, 1992, the field attorney advised the Respondent and its counsel that no answer to the compliance specification had been received and that unless an appropriate answer was filed by close of business July 17, 1992, summary judgment would be sought. The Respondent filed no answer.²

On March 8, 1993, the General Counsel filed with the Board a motion to transfer case to and continue

proceeding before the Board, and for summary judgment and issuance of a supplemental decision and Order, with exhibits attached. On March 10, 1993, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the net amounts due the discriminatees is as stated in the compliance specification and we will order payment by the Respondent to the employees.

ORDER

The National Labor Relations Board orders that the Respondent, MRS Printing, Inc., Watertown and Gouverneur, New York, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, with interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987):

Morris Gagnon	\$146.34
Arlene Stevens	802.08
Beverly Stevenson	146.34
Damon Towne	146.34
Margaret Webster	2,938.32

¹ 304 NLRB 292.

² The compliance specification was sent to the Respondent and its counsel, H. Thomas Swartz, by certified mail. The letter dated June 22, 1992, was sent to both parties by certified and regular mail. Returned receipts for both documents were received from the Respondent's counsel. However, the compliance specification addressed to the Respondent was returned with the notation "moved-left no forward" and the letters were returned as "unclaimed" (certified) and "moved, left no address" (regular). Service of these documents was properly accomplished by deposit in the mail to the Respondent's last known address. *Mondie Forge Co.*, 309 NLRB No. 82 fn. 1 (Nov. 25, 1992) (not reported in Board volumes). Moreover, a respondent's failure or refusal to claim certified mail or to provide for receiving appropriate service cannot serve to defeat the purposes of the Act. *Michigan Expediting Service*, 282 NLRB 210 fn. 6 (1986). We find that service in the circumstances here is adequate.